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Acuity, a Mutual Insurance Company

9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11 ACUITY, a Mutual Insurance Company,

CASE NO: 2:19-cv-01879-GMN-DJA

12 Plaintiff,

14 vs.

15 CHERYL RIDEOUT CIFUNI, individually
16 and as Special Administrator of the Estate
of MIKAYLA ALEXANDRA CIFUNI,
17 deceased; and MICHAEL CIFUNI,
individually; DOE INDIVIDUALS I through
18 X inclusive and ROE BUSINESS
ENTITIES I through X inclusive,

20 Defendants.

22 **STIPULATION AND ORDER TO MODIFY THE DISCOVERY PLAN AND**
23 **SCHEDULING ORDER TO EXTEND DISCOVERY PLAN DEADLINES**
(FIRST REQUEST)

24 Plaintiff Acuity, a Mutual Insurance Company and Defendants Cheryl Rideout
25 Cifuni individually and as Special Administrator of the Estate of Mikayla Cifuni
26 (deceased) and Michael Cifuni, by and through their respective counsel, and pursuant
27 to Local Rule ²⁶⁻³~~26-4~~, stipulate to modify their discovery plan as follows:
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STIPULATION AND ORDER TO MODIFY THE DISCOVERY PLAN AND SCHEDULING ORDER (FIRST REQUEST)

1 1. On October 23, 2019, Plaintiff filed their Complaint for Declaratory Relief
2 [ECF 1].

3 2. On October 24, 2019, this Court assigned the matter to the Honorable
4 Judge Gloria M. Navarro and Magistrate Judge Daniel J. Albregts [ECF 2].

5 3. On October 25, 2019, Plaintiff filed proposed Summons for the Estate of
6 Mikayla Cifuni, Cheryl Rideout Cifuni and Michael Cifuni were filed [ECF 3 – ECF 5].

7 4. On October 25, 2019, Plaintiffs Summons were issued for the Estate of
8 Mikayla Cifuni, Cheryl Rideout Cifuni and Michael Cifuni [ECF 6].

9 5. On October 30, 2019, Plaintiff filed their Certificate of Interested Parties
10 [ECF 7].

11 6. On December 14, 2019, Plaintiff filed Proof of Service for the Estate of
12 Mikayla Cifuni [ECF 8].

13 7. On December 14, 2019, Plaintiff filed Proof of Service for Cheryl Rideout
14 Cifuni [ECF 9].

15 8. On December 14, 2019, Plaintiff filed Proof of Service Michael Cifuni [ECF
16 10].

17 9. On January 21, 2020, Defendants filed their Certificate of Interested
18 Parties [ECF 11].

19 10. On January 21, 2020, Defendants filed their Motion to Dismiss [ECF 12].

20 11. On January 28, 2020, Plaintiffs filed their Motion for Summary Judgment
21 [ECF 13].

22 12. On January 30, 2020, Plaintiffs filed their Response to Defendants Motion
23 to Dismiss [ECF 14].

24 13. On February 7, 2020, Defendants filed their Reply to Plaintiffs Response
25 to Defendants Motion to Dismiss [ECF 15].

26 14. On February 7, 2020, the parties filed their proposed Discovery Plan and
27 Scheduling Order [ECF 16].

1 15. On February 10, 2020, this Court granted the Discovery Plan and
2 Scheduling Order [ECF 17].

3 .16. On February 10, 2020, this Court issued its Notice Regarding AO 85
4 Consent Forms [ECF 18].

17. On February 11, 2020, Defendants filed a Response to Plaintiffs Motion
for Summary Judgment [ECF 19].

7 18. On February 25, 2020, the parties filed a Stipulation and Order to Extend
8 Time for Plaintiff to Reply to Defendants Response to Plaintiffs Motion for Summary
9 Judgment [ECF 20].

10 19. On February 26, 2020, this Court granted the Stipulation and Order to
11 Extend Time for Plaintiff to Reply to Defendants Response to Plaintiffs Motion for
12 Summary Judgment [ECF 21].

20. On March 3, 2020, Plaintiff filed a Reply to Defendants Response to
to Plaintiffs Motion for Summary Judgment [ECF 22].

21. On March 13, 2020, Plaintiff filed Exhibit B to their Reply to Defendants
Response to Plaintiffs Motion for Summary Judgment [ECF 23].

22. On April 3, 2020, Plaintiff filed a Motion for Leave to File Supplemental
Brief [ECF 24].

23. On April 16, 2020, Defendants filed their Response to Plaintiffs Motion for
Leave to file Supplemental Brief [ECF 25].

21 24. On April 22, 2020, Plaintiff filed their Reply to Defendants Response to
22 Plaintiffs Motion for Leave to file Supplemental Brief [ECF 26].

23 25. The parties held their F.R.C.P. Rule 26(f) conference on January 31, 2020
24 and filed their Stipulated Discovery Plan and Scheduling Order on February 7, 2020. In
25 this original plan, the parties agreed to the following dates:

26	Last Day to Amend Pleadings:	04/21/2020
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27	Expert Disclosure Deadline:	05/21/2020
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28	Interim Status Report Deadline:	05/21/2020
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STIPULATION AND ORDER TO MODIFY THE DISCOVERY PLAN AND SCHEDULING ORDER (FIRST REQUEST)

1	Rebuttal Expert Disclosure:	06/22/2020
2	Last Day to Extend Discovery Plan:	06/29/2020
3	Discovery Cut-Off:	07/20/2020
4	Dispositive Motions Deadline:	08/20/2020
5	Pre-Trial Order:	09/19/2020

6 The initial discovery plan was approved by United States Magistrate Daniel J.
7 Albregts on February 10, 2020.

8 26. In compliance with Local Rule 26-4, the parties provide the following
9 information regarding the discovery status:

10 (a) **Discovery Completed pursuant to Fed. R. Civ. P. 26(a):**

11 **Defendants:**

12 None

13 **Plaintiffs:**

14	Plaintiff's Initial Disclosures	02/05/2020
15	Plaintiff's First Supplemental Disclosure	02/12/2020
16	Plaintiff's Second Supplemental Disclosure	02/24/2020

17 (b) **Discovery that remains to be completed:**

- 18 • Following the court's ruling on the Motion to Dismiss, Plaintiff needs to file
- 19 a responsive pleading.
- 20 • Plaintiff needs to conduct the depositions of Defendants.
- 21 • The parties may wish to conduct depositions of other parties or witnesses.
- 22 • The parties need to designate experts and rebuttal experts and exchange
- 23 designations of experts and their reports.
- 24 • The parties need to conduct the depositions of Plaintiff's experts and
- 25 Defendant's experts.

26 (c) **Reasons why discovery was not completed:**

- 27 • The parties need additional time for discovery for the following reasons,
- 28 among others:

STIPULATION AND ORDER TO MODIFY THE DISCOVERY PLAN AND SCHEDULING ORDER (FIRST REQUEST)

- It took longer than expected to gather all of the documents.
- Additional discovery is anticipated to be largely dependent upon the testimony given at the depositions and, due to the State Court Case difficulties encountered in coordinating the schedule of the witnesses and counsel for the parties.
- Defendants counsel has recently filed a Motion to Dismiss.
- Plaintiff's counsel has recently filed a Motion for Summary Judgment.
- A hearing on the Motions has not been set.
- The COVID-19 restrictions have impacted the parties' ability to obtain documents, schedule depositions and obtain experts.

The parties submit that pursuant to Rule LR II 26-4, good cause exists for the proposed extended discovery schedule detailed below.

(d) Proposed Schedule:

The parties propose a 60-day extension to complete the remaining discovery.

Those dates will be:

Last Day to Amend Pleadings:	closed
Expert Disclosure Deadline:	07/20/2020
Interim Status Report Deadline:	07/20/2020
Rebuttal Expert Disclosure:	08/21/2020
Last Day to Amend DPSO:	08/28/2020
Discovery Cut-Off:	09/18/2020
Dispositive Motions Deadline:	10/19/2020
Pre-Trial Order:	11/18/2020

(If dispositive motions are filed, the deadline for the filing of the joint pre-trial order will be suspended until 30 days after decision on the dispositive motions or further court order.)

CONCLUSION

For the foregoing reasons, the parties herein respectfully request this Honorable Court to modify the Discovery Plan and Scheduling Order to extend all discovery deadlines.

Approved as to form and content:

Dated this 20th day of May 2020.

NETTLES / MORRIS

/s/ Christian M. Morris

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Dated this 20th day of May 2020.

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IT IS SO ORDERED.

DATED: May 21, 2020.


UNITED STATES MAGISTRATE JUDGE

****NOTE - The Local Rules as amended on 4/17/2020 eliminated former Local Rule 26-3's requirement for Interim Status Reports. Therefore, the parties are not required to submit an Interim Status Report. The parties are directed to review the revised local rules for further changes.****

STIPULATION AND ORDER TO MODIFY THE DISCOVERY PLAN AND SCHEDULING ORDER (FIRST REQUEST)